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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, JUNE 19, 2001

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS010084

Ex Parte: In the matter of Adopting Revisions to the Rules Governing Credit for Reinsurance

ORDER ADOPTING REVISIONS TO RULES

WHEREAS, by order entered herein April 27, 2001, all interested persons were ordered to take notice that the Commission would consider the entry of an order subsequent to June 11, 2001, adopting revisions proposed by the Bureau of Insurance to the Commission's Rules Governing Credit for Reinsurance, unless on or before June 11, 2001, any person objecting to the adoption of the proposed revisions filed a request for a hearing with the Clerk of the Commission;

WHEREAS, the April 27, 2001, Order also required all interested persons to file their comments in support of or in opposition to the proposed revisions on or before June 11, 2001;

WHEREAS, as of the date of this Order, no request for a hearing has been filed with the Clerk of the Commission;

WHEREAS, as of the date of this Order, no comments have been filed with the Clerk of the Commission;

WHEREAS, the Bureau has recommended that the proposed revisions be adopted; and

THE COMMISSION, having considered the proposed revisions and the Bureau's recommendation, is of the opinion that the attached proposed revisions should be adopted;

THEREFORE, IT IS ORDERED THAT:

- (1) The revisions to Chapter 300 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Credit for Reinsurance," which amend the rule at 14 VAC 5-300-90, and which are attached hereto and made a part hereof, should be, and they are hereby, ADOPTED to be effective August 1, 2001;
- (2) AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Douglas C. Stolte, who forthwith shall give further notice of the adoption of the revisions to the rule by mailing a copy of this Order, including a copy of the attached revised rule, to all insurers, joint underwriting associations, group self-insurance pools, group self-insurance associations, and reinsurers licensed by or otherwise registered with the Commission, and subject to Article 3.1 of Chapter 13 of Title 38.2 of the Code of Virginia or otherwise authorized by Title 38.2 to reinsure risks; and by forwarding a copy of this Order,

including a copy of the attached revised rule, to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations; and

(3) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirement of paragraph (2) above.

CHAPTER 300.

Rules Governing Credit For Reinsurance

14 VAC 5-300-90. Credit for reinsurance; reinsurers maintaining trust funds.

- A. Pursuant to § 38.2-1316.2 A 4 or § 38.2-1316.3 A 3 of the Act, the Commission shall allow credit for reinsurance ceded to a trusteed assuming insurer which, as of the date of the ceding insurer's statutory financial statement:
- 1. Maintains a trust fund and trusteed surplus that complies with the provisions of § 38.2-1316.2 A 4 of the Act,
- 2. Complies with the requirements set forth below in subsections B, C and D of this section, and
- 3. Reports annually to the Commission on or before June 1 of each year in which a ceding insurer seeks reserve credit under the Act substantially the same information as that required to be reported on the NAIC annual statement form by licensed insurers, to enable the Commission to determine the sufficiency of the trust fund. The accounting shall, among other things, set forth the balance to the trust and list the trust's investments as the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31.
- B. When credit is taken for reinsurance ceded to any trusteed assuming insurer, the Commission may require that the ceding insurer file or cause to be filed; :
- 1. A copy of the trust agreement pertaining to the requisite trust funds along with a statement identifying and locating the specific provisions in the agreement which satisfy the form of trust requirements set forth below at in subsection E of this section.
- 2. Satisfactory evidence that the requisite trust funds are held in a qualified United States financial institution,
- 3. A certified statement and accounting of trusteed surplus executed by a duly authorized officer or representative of the trusteed assuming insurer-,
 - 4. A certified statement from the trustee of the trust listing the assets of the trust-, and
- 5. A certified English translation for any foreign language documents filed pursuant to the Act or this chapter.

- C. When credit is requested for reinsurance ceded to trusteed assuming insurer which is a group of including incorporated and individual unincorporated underwriters, the group shall make available to the Commission annual certifications of solvency of each underwriter member of the group, prepared by the group's domiciliary regulator and its independent accountant, or if a certification is unavailable a financial statement, prepared by independent public accountants, of each underwriter member of the group.
- D. When credit is requested for reinsurance ceded to a trusteed assuming insurer which is a group of incorporated insurers under common administration, the group shall:
- 1. File evidence of its submission to the Commission's authority to examine the books and records of any member of the group.
 - 2. Certify that any member examined will bear the expense of any such examination.
- 3. Make available to the Commission <u>an</u> annual <u>certifications</u> <u>certification of each underwriter member's solvency</u> by the <u>members' member's</u> domiciliary <u>regulators regulator</u> and <u>their financial statements prepared by</u> independent public accountants of the <u>solvency</u> of each underwriter member of the group.
- 4. If requested by the Commission, file copies of annual statements for the three-year period preceding the initial request for credit, or other documents satisfactory to the Commission, which show that the group has continuously transacted an insurance business outside the United States for at least three years.
- E. Form of Trust. The trust required under § 38.2-1316.2 A 4 of the Act and subdivisions A 2, A 3, B 1, and B 2 of this section shall provide that:
- 1. Contested claims shall be valid and enforceable out of funds in trust to the extent remaining unsatisfied 30 days after entry of the final order of any court of competent jurisdiction in the United States.
- 2. Legal title to the assets of the trust shall be vested in the trustee for the benefit of the grantor's United States policyholders and ceding insurers, their assigns and successors in interest.
- 3. The trust and the assuming insurer shall be subject to examination as determined by the Commission.
- 4. The trust shall remain in effect for as long as the assuming insurer, or any member or former member of a group of insurers, shall have outstanding obligations under reinsurance agreements subject to the trust, and .

- 5. No later than February 28 of each year the trustees of the trust (i) shall report to the Commission in writing setting forth the balance in the trust and listing the trust's investments at the preceding year end and (ii) shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next December 31.
- F. Any amendment to the trust, required under § 38.2-1316.2 A 4 of the Act and subdivisions A 1, A 3, B 1, and B 2 of this section, shall be filed with the Commission within 30 days after the effective date of the amendment.